

REMARKS

Rejection under 35 USC 103(a)

Claims 1-3 and 5-20 were rejected under 35 USC 103(a) as being unpatentable over Kataoka et al. (US 6235331) and/or Granata (WOO2/058793) in view of Chavali et al. (US 20010031275, DWPI Abstract), Maguire et al. (DWPI Abstract, 1995-054394), Chen et al. (US 20020156051, DWPI Abstract) and Wechter (US 6242479).

Here, the Examiner is rejecting the claims under 35 USC 103(a). Responding to Applicants' previous response, the Examiner alleged as follows:

Applicant argues Kataoka et al, Granata, Chavali, Maguire, Chen and Wechter do not teach or suggest the particular combination of ingredients because the combination of references suggest the particular combination of ingredients have greater than expected results as shown in Figure 1. Thus, an effect which is greater than the sum of each of the effects taken separately can be evidence of a greater than expected result. The disclosure of the present application sufficiently shows such unexpected results.

Although Applicant argues that the disclosure of the present application sufficiently shows such unexpected results, it appears to examiner that **applicant has not claimed any specific effective amounts and/or ranges of active ingredients within its claimed composition to determine whether applicants' claimed composition invention demonstrates unexpected results and synergism.** What specific effective amounts and/or ranges of active ingredients within applicants' claimed composition of claims 1-3 and 5-20 produce unexpected results and synergism?

As discussed in Applicants' previous response, Kataoka et al, Granata Chavali et al, Maguire et al, Chen et al and Wechter do not teach or suggest the particular combination of ingredients. Also, discussed in Applicants' previous response, the embodiments show effects which are greater than the sum of each of the effects taken separately, which MPEP 716.02(a)

explains as a possible persuasive result. The disclosure of the present application sufficiently shows such unexpected results. Thus, the *prima facie* case of obviousness has been effectively rebutted by factual evidence by the explanation of the embodiments. The Examiner does not deny the unexpectedness of the results shown in the present embodiments.

Nevertheless the Examiner alleges that applicant has not claimed any specific effective amounts and/or ranges of active ingredients. It appears that the Examiner assumes that the unexpected results are limited to specific amounts or ranges of active ingredients. However, it would be rather unusual for a person of ordinary skill in the art to assume that the synergistic antioxidizing effects will disappear in the amounts or ranges other than those shown in the embodiments. A person of ordinary skill in the art would assume that if the amount becomes less, **the synergistic antioxidizing effects will still remain comparing with adding antioxidative sesame component alone or ascorbic acid or an ascorbyl fatty acid ester alone.** Thus, it is natural for a person of ordinary skill in the art to conclude similar results will be obtained for the amounts or ranges other than those shown in the embodiments. The Examiner has not shown any reasonable basis for the assumption.

The present invention is based on Applicants' discovery that the combination of an antioxidative sesame component and ascorbic acid or an ascorbyl fatty acid ester shows remarkable synergistic antioxidizing effects.

For at least these reasons, claim 1 patentably distinguishes over Kataoka et al, Granata Chavali et al, Maguire et al, Chen et al and Wechter. Claims 5-20, all depending from claim 1,

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also patentably distinguish over Kataoka et al, Granata, Chavali et al, Maguire et al, Chen et al and Wechter for for at least the same reasons.

Thus, the 35 USC 103(a) rejection should be withdrawn.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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